

Order

Michigan Supreme Court
Lansing, Michigan

April 4, 2007

Clifford W. Taylor,
Chief Justice

132231

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 132231
COA: 254868
Wayne CC: 99-012340

KEITH TATE,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the June 20, 2006 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and REINSTATE the order of the Wayne Circuit Court denying defendant's motion for a new trial. The appeals court improperly substituted its judgment for that of the trier of fact, in this case the trial court, in regard to the assessment of witness credibility. *People v Lemmon*, 456 Mich 625, 646-647 (1998).

CAVANAGH and KELLY, JJ., would deny leave to appeal.



10328

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 4, 2007

Corbin R. Davis

Clerk